



L. JOYCE HAMPERS  
COMMISSIONER

# *The Commonwealth of Massachusetts*

*Department of Revenue*

*Leverett Saltonstall Building,*

*100 Cambridge Street, Boston 02204*

February 9, 1982

You request a ruling with respect to the Massachusetts sales and use tax consequences of a proposal under which ("Corporation") intends to purchase, reconstruct, and lease to the United States Navy ("Navy") up to six cargo vessels now owned by ("Shipping Line").

The Corporation proposes to take title to and possession of the vessels from the Shipping Line either within or without Massachusetts, for the sole purpose of reconstructing them to detailed Navy specifications and leasing them to the Navy.

The vessels are 695-foot, 18,100 long-ton deadweight ships designed for commercial carriage of containers and motor vehicles. At its Massachusetts shipyard, the Corporation will convert them to 806-foot, 22,210 long-ton deadweight vessels, by constructing a new 110-foot midbody for each vessel; dividing each vessel in two; separating and extensively modifying the fore and aft sections; floating the three sections into alignment; and joining and finishing the three sections. The Corporation will also construct and install in each vessel a new deckhouse, cargo maintenance shops, a helicopter landing platform, loading decks, fuel facilities, cranes and hatches, and new HVAC and electrical power generating equipment. In addition, the Corporation must take steps to ensure that each reconstructed vessel will satisfy requirements for registry under the flag of the United States, as well as other requirements of various domestic and international regulatory bodies.

February 9, 1982

As soon as reconstruction and certification of the vessels is completed, the Corporation will lease them to the Navy.

Massachusetts General Laws Chapter 64H, Section 2 imposes an excise on sales at retail of tangible personal property in Massachusetts by any vendor; "sale at retail" does not include sales for resale in the regular course of business (G.L. c. 64H, s. 1(13)).

Chapter 64I, Section 2 imposes an excise on the storage, use or other consumption in Massachusetts of tangible personal property purchased from any vendor for storage, use or other consumption in Massachusetts; "storage, use or other consumption" does not include the sale of tangible personal property in the regular course of business or the retention of tangible personal property for sale in the regular course of business (G.L. c. 64I, s. 1(4), (5)).

The sales tax does not apply to sales of materials, tools and fuel which become an ingredient or component part of tangible personal property to be sold, or which are consumed and used directly and exclusively in an industrial plant in the actual manufacture of tangible personal property to be sold (G.L. c. 64H, s. 6(r)).

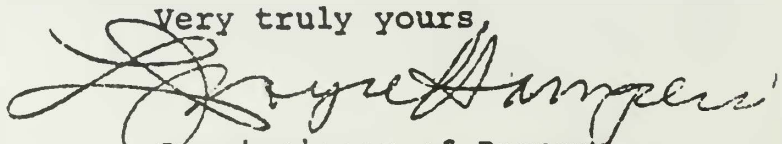
Sales to the United States or its agencies are exempt from the sales tax (G.L. c. 64H, s. 6(d)). Leases are "sales" for sales and use tax purposes (G.L. c. 64H, s. 1(12)(a); G.L. c. 64I, s. 1(1)).

General Laws Chapter 64H, Section 6(o) provides that sales of vessels of fifty tons burden or over are exempt from the sales tax when the vessels are constructed in Massachusetts and sold by the builders thereof.

With exceptions not here relevant, sales exempt from the sales tax are also exempt from the use tax (G.L. c. 64I, s. 7(b)).

Based on the foregoing, it is ruled that the Massachusetts sales and use taxes will not apply to the Corporation's purchase of the vessels, its use of the vessels in Massachusetts, or its lease of the vessels to the Navy.

Very truly yours,



Commissioner of Revenue

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